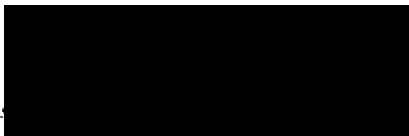




U.S. Citizenship  
and Immigration  
Services



FILE:



Office: Houston

Date: **OCT 20 2004**

IN RE:

Applicant:



PETITION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), *amended by LIFE Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).*

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

Robert P. Wiemann, Director  
Administrative Appeals Office

Identifying data deleted to  
prevent identity or warranted  
invasion of personal privacy

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**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, Houston Texas, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The district director denied the application because the applicant had not demonstrated that she had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

On appeal, the applicant reiterates her claim to have been continuously physically present in the United States from November 6, 1986 to May 4, 1988, except for brief visits outside this country in 1986, 1987, and 1988. The applicant indicates that she also continuously resided in the United States from prior to January 1, 1982 to May 4, 1988, with the exception of a brief absence of less than thirty days from this country in 1985.

An applicant for permanent resident status must establish entry into the United States before January 1, 1982 and continuous residence in the United States in an unlawful status since such date and through May 4, 1988. 8 C.F.R. § 245a.11(b).

"Continuous unlawful residence" is defined at 8 C.F.R. § 245a.15(c)(1), as follows: An alien shall be regarded as having resided continuously in the United States if no single absence from the United States has exceeded *forty-five (45) days*, and the aggregate of all absences has not exceeded one hundred and eighty (180) days between January 1, 1982, and May 4, 1988, unless the alien can establish that due to *emergent reasons*, his or her return to the United States could not be accomplished within the time period allowed.

An applicant for permanent resident status under section 1104 of the LIFE Act has the burden to establish by a preponderance of the evidence that he or she has resided in the United States for the requisite periods, is admissible to the United States and is otherwise eligible for adjustment of status under this section. The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. 8 C.F.R. § 245a.12(e).

When something is to be established by a preponderance of the evidence it is sufficient that the proof establish that it is probably true. *See Matter of E-- M--*, 20 I. & N. Dec. 77 (Comm. 1989).

Although the regulations provide an illustrative list of contemporaneous documents that an applicant may submit, the list also permits the submission of affidavits and any other relevant document. 8 C.F.R. § 245a.2(d)(3)(vi)(L).

In an attempt to establish continuous unlawful residence since before January 1, 1982, the applicant furnished only her own personal statement in which she claimed to have entered the United States in October 1980. The applicant has submitted no other documentation to support her claim of continuous residence in this country during the requisite period.

The regulations at 8 C.F.R. § 245a.2(d) provide a list of documents that may establish continuous residence and specify that "any other relevant document" may be submitted. However, while the applicant's statement and the

testimony contained therein could possibly be considered as evidence of continuous residence during the period under discussion, certain questions have arisen which impact on the overall credibility of her claim. Specifically, during the course of the applicant's adjustment interview at the Houston district office of Citizenship and Immigration Services (CIS), on May 8, 2003, she acknowledged when questioned under oath in the presence of an examining officer that she first entered the United States in July or August of 1982. In addition, the record shows that the applicant executed a signed sworn statement during her interview on May 8, 2003, in which she admitted "I first entered the U.S. in July or August (summertime) 1982 as a B-2 visitor with my first passport from Nigeria."

On appeal, the applicant has made no attempt to explain, address or resolve the fact that she admitted in a signed sworn statement that she did not enter the United States until July or August of 1982.

Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I. & N. Dec. 582 (BIA 1988).

Given the applicant's own admission that she did not enter the United States until July or August of 1982, it is concluded that she has failed to establish continuous residence in this country from prior to January 1, 1982 through May 4, 1988, as required.

**ORDER:** The appeal is dismissed. This decision constitutes a final notice of ineligibility.